

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

)
ESTATE OF JAMES KEAN, EARNEST KEAN,)
ALVA MARSH, WARREN MARSH, JEWEL)
MARSH MOOLENAR, PATRICIA LOONEY,)
individually, and as guardian for)
IRMA MARSH CALIGIONE,)

)
)
Plaintiffs)

)
v.)

)
NATIONAL PARK SERVICE of the UNITED)
STATES OF AMERICA, TRUST FOR PUBLIC)
LAND, OUIDA NELSON, JOSEPH ADLER,)
VALENTINO NELSON, and NELINDA)
NELSON,)

)
Defendants.)

)
NATIONAL PARK SERVICE and UNITED)
STATES OF AMERICA,)

)
Third-Party Plaintiff,)

)
v.)

)
TRUST FOR PUBLIC LAND,)

)
Third-Party Defendant.)

Civil No. 1998-176

ATTORNEYS:

Cathy M. Smith, Esq.
St. Croix, U.S.V.I.
For the plaintiffs,

Joycelyn Hewlett, Esq.

St. Thomas, U.S.V.I.

For the United States of America through the National Park Service,

A. Jeffrey Weiss, Esq.

St. Thomas, U.S.V.I.

For the Trust for Public Land,

Carol Ann Rich, Esq.

St. Thomas, U.S.V.I.

For Carolyn Ortiz, individually and as executor of the Estate of Hallie Ortiz,

Valentino Nelson

St. Thomas, U.S.V.I.

Pro se,

Nelinda Nelson

St. Thomas, U.S.V.I.

Pro se.

ORDER

GÓMEZ, C.J.

Before the Court is the motion of defendant, the Trust for Public Land (the "Trust") for an apportionment of the costs of partition in this matter.

On September 8, 1998, the Plaintiffs commenced this action in the Superior Court to quiet title and for partition of the life estates and remainder interests in certain real property described as Parcel Remainder 3A, Estate Abraham's Fancy, St. John, U.S. Virgin Islands (the "Property"). The matter was subsequently removed to this Court.

On December 14, 2007, this Court entered an Order adopting the report and recommendations of the United States Magistrate Judge, and confirming the Referees' Report, dated June 12, 2007. The December 14, 2007, Order also requires that the Property be partitioned in accordance with the Referee's Report.

Title 28, section 497 of the Virgin Islands Code ("Section 497") provides:

The costs of partition, including fees of referees and other disbursements, shall be paid by the parties respectively entitled to share in the lands divided, in proportion to their respective interests therein, and may be included and specified in the judgment. In that case there shall be a lien on the several shares, and the judgment may be enforced by execution against the parties separately. When, however, a litigation arises between some of the parties only, the court may require the expenses of such litigation to be paid by the parties thereto, or any of them.

V.I. CODE ANN. tit. 28, § 497.

The Referee's Report in this matter states that the Trust holds a 7/11 interest in the Property, the United States of America, through the National Park Service ("NPS") holds a 3/11 interest, and the Estate of Douglas Nelson, Valentino Nelson, and Nelinda Nelson (the "Nelsons") hold a 1/11 interest in the Property. Accordingly, pursuant to Section 497, it is hereby

ORDERED that the motion for apportionment of costs is **GRANTED**; and it is further

ORDERED that the costs of partition in this matter shall be apportioned as follows: the Trust shall be liable for 7/11 of the partition costs, the NPS shall be liable for 3/11 of the partition costs, and the Nelsons shall be liable for 1/11 of the partition costs.

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CURTIS V. GÓMEZ
Chief Judge